THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.13086 of 2007

Date:22.06.2007

Between:

M/s. Sun Beam Electrodes.

....Petitioner

and

APCPDCL and others.

....Respondents

O R D E R:

The petitioner purchased a sick industrial unit in plot No.155/B, in survey No.172 of Sri Venkateswara Industrial Estate, Bollaram Village, Jinnaram Mandal, Medak District. The auction was conducted by the official liquidator attached to the High Court of Andhra Pradesh in a Company Application. The sale deed was executed and property was delivered to it.

The fourth respondent served notice, dated 23.02.2007, requiring the petitioner to clear the arrears of Rs.2,54,737/- which was on account of the previous owner of the unit i.e. M/s.Omnitrode. The petitioner challenges the said notice.

The learned counsel for the petitioner submits that the respondents cannot proceed against the petitioner to recover the arrears that became due from the previous owner of the property. He places reliance upon a judgment of the Hon'ble Supreme Court in ***Isha Marbles Vs. Bihar State Electricity Board***[1].

The learned standing counsel for the respondents, on the other hand, submits that the petitioner had purchased the property together with the liabilities that are attached to it and no exception can be taken to the impugned notice.

The impugned notice is issued in relation to service

connection No.464. Admittedly, M/s.Omsitrode was the consumer for that service connection. The petitioner purchased the property not from M/s.Omnitrode, but in the proceedings through the official liquidator. There is no privity of contract between the petitioner and the respondents. Further, there is no agreement nor any provision of law, which enables the respondents, to recover the arrears payable by one consumer against a third party.

Another grievance of the petitioner is that it had applied to the respondents for extension of power supply and the same is not being processed on the ground that the arrears indicated through the impugned notice are not cleared. Even this cannot be countenanced in law. As long as the petitioner did not fall in arrears of any consumption charges, it cannot be denied the extension of power supply under the usual terms and conditions.

The question as to whether a purchaser of property in an auction conducted by the State Financial Corporation is liable to pay the arrears of electricity consumption and related charges, which remained unpaid by the previous owner of the property is no longer *res integra*. In ***Isha Marbles vs. Bihar State Electricity Board*** (cited supra), the Hon'ble Supreme Court held that a subsequent purchaser cannot be held liable to clear the arrears referable to the previous owner. This judgment was followed and re-affirmed in ***Ahmedabad Electricity Co. Ltd Vs. Gujarat Inns Pvt. Ltd.***[2]

Following the same, the writ petition is allowed and the impugned notice, dated 23.02.3007, is set aside. The respondents are directed to process the application of the petitioner for extension of power supply, without insisting on payment of arrears

referable to the previous owner of the property. There shall be no order as to costs.

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22.06.2007

kdl

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[1] (1995) 2 Supreme Court Cases 648

[2] AIR 2004 Supreme Court 2171